



COPY

Ms Lara Kirchner
General Manager
Council of the City of Botany Bay
PO Box 331
Mascot NSW 1460

15/16490

Dear Ms Kirchner *Lara*

Planning proposal to amend Botany Bay Local Environmental Plan 2013

I refer to Council's letter dated 10 August 2015 requesting a Gateway Determination under section 56 of the *Environmental Planning and Assessment Act 1979* (EP&A Act) in respect of the planning proposal to amend Schedule 1 of the *Botany Bay Local Environmental Plan 2013*.

As delegate of the Minister for Planning, I have determined the planning proposal should proceed subject to the conditions in the attached Gateway Determination.

The Department is broadly supportive of the intent of Council's planning proposal, noting one of the priorities outlined in *A Plan for Growing Sydney* (for the Central District) is to prepare and deliver a Structure Plan for the Sydney (Kingsford Smith) Airport and Port Botany Precincts to support their growth. However, the Department is concerned that the planning proposal will introduce commercial uses that may be incompatible with the areas role in supporting the operation of the Airport. It is important that the proposal does not pre-empt the district planning process in this regard.

Prior to public exhibition, the planning proposal is to be updated to remove 'Business Premises', 'Function centres', 'Information and Education Facilities' and 'Tourist and Visitor Accommodation' from the proposed Schedule 1 uses.

The inclusion of subclauses relating to the permissibility of services related to specified uses carried out at the Airport, and to services provided for hotel and motel guests (as specified in the planning proposal), are also not supported at this time and should be removed from the planning proposal prior to exhibition.

While the Department does not support the introduction of these uses at this time, it is recommended Council work with the Department through the district planning process to further consider the suitability of these uses in a more strategic manner.

In light of the above, and given the strategic importance of these lands, I have decided not to issue an authorisation for Council to exercise delegation to make this Plan.

The amending Local Environmental Plan (LEP) is to be finalised within 12 months of the week following the date of the Gateway Determination. Council should aim to commence the exhibition of the planning proposal as soon as possible. Council's request to draft and finalise the LEP should be made to the Department 8 weeks prior to the projected publication date.

The State Government is committed to reducing the time taken to complete LEPs by tailoring the steps in the process to the complexity of the proposal, and by providing clear and publicly available justification for each plan at an early stage. In order to meet these commitments, the Minister may take action under section 54(2)(d) of the EP&A Act if the time frames outlined in this determination are not met.

Should you have any queries in regard to this matter, please contact Mr Andrew Watkins of the Sydney East Region office of the Department of Planning and Environment on (02) 9228 6558.

Yours sincerely

A handwritten signature in black ink, appearing to read 'Marcus Ray', with a stylized flourish at the end.

Marcus Ray
Deputy Secretary
Planning Services

15/04/2016
Encl: Gateway Determination

Gateway Determination

Planning proposal (Department Ref: PP_2015_BOTAN_003_00): to amend Schedule 1 Additional Permitted Uses of Botany Bay Local Environmental Plan 2013 to enable Airport related land uses.

I, the Deputy Secretary, Planning Services, at the Department of Planning and Environment as delegate of the Minister for Planning, have determined under section 56(2) of the *Environmental Planning and Assessment Act 1979* (the Act) that an amendment to the Botany Bay Local Environmental Plan 2013 to amend Schedule 1 Additional Permitted Uses to enable Airport related land uses should proceed subject to the following conditions:

1. Prior to public exhibition, the planning proposal is to be updated to:
 - (a) include a plain English explanation of the intended effect of the proposed provisions;
 - (b) include an aerial photo and site location map to clearly identify the subject area relating to the planning proposal;
 - (c) provide further justification for any inconsistencies with *A Plan for Growing Sydney* and Section 117 Direction 1.1 Business and Industrial Zones in respect of the use of the land for airport-related uses;
 - (d) include overarching development assessment criteria which Council will use to ensure only airport-related employment uses are given consent;
 - (e) provide consideration of any likely transport and traffic related impacts resulting from the planning proposal, particularly from the introduction of 'freight transport facilities', 'general industries' and 'transport depots';
 - (f) remove 'Business premises', 'Function centres', 'Tourist and visitor accommodation', and 'Information and education facilities' as proposed uses;
 - (g) remove the following subclause:

'Development is to be permitted for the purpose of a building or place used for the provision of any of the following services:

 - (a) 'services related to any of the following uses carried out at Sydney (Kingsford Smith) Airport:
 - (i) the assembly, storage or land transport of air freight;
 - (ii) the accommodation, or transportation by air or land, of air passengers or air crew;
 - (iii) the storage, operation, maintenance or repair of aircraft or aircraft components;
 - (iv) the administrative functions associated with the Airport, such as airport management and security,
 - (v) the functions of government departments and authorities related to air passengers and air freight' and
 - (b) 'services provided for hotel or motel guests, including banking, dry cleaning, hairdressing and the like, that are located within the confines of the hotel or motel building.'

2. Council is to retain the current clauses 9A and 10A applying to Qantas-owned land, and insert additional clauses to address the intent of the planning proposal to apply to the expanded area.
 3. Community consultation is required under sections 56(2)(c) and 57 of the Act as follows:
 - (a) the planning proposal is classified as low impact as described in *A Guide to Preparing LEPs (Department of Planning & Infrastructure 2013)* and must be made publicly available for a minimum of **28 days**; and
 - (b) the relevant planning authority must comply with the notice requirements for public exhibition of planning proposals and the specifications for material that must be made publicly available along with planning proposals as identified in section 5.5.2 of *A Guide to Preparing LEPs (Department of Planning & Infrastructure 2013)*.
 4. Consultation is required with the following public authorities under section 56(2)(d) of the Act in relation to the proposal:
 - Transport for NSW – Roads and Maritime Services;
 - Marrickville Council;
 - Rockdale Council;
 - City of Sydney Council;
 - Sydney Airport Corporation; and
 - Sydney Ports Corporation / NSW Ports.
- The public authorities are to be provided with a copy of the planning proposal and any relevant supporting material, and given at least 21 days to comment on the proposal.
8. A public hearing is not required to be held into the matter by any person or body under section 56(2)(e) of the Act. This does not discharge Council from any obligation it may otherwise have to conduct a public hearing (for example, in response to a submission or if reclassifying land).
 9. The timeframe for completing the LEP is to be 12 months from the week following the date of the Gateway determination.

Dated 15th day of February 2016


Marcus Ray
Deputy Secretary
Planning Services

Delegate of the Minister for Planning